

proceeding, and the clerk of said court shall make and certify a return of the imposition of said tax forthwith to the county auditor, who shall enter the same as a tax upon the property and against the persons upon which or whom the lien was imposed as and when the other taxes are entered, and the same shall be and remain a lien on the land upon which such lien was imposed until fully paid. Any such lien imposed while the tax books are in the hands of the auditor shall be immediately entered therein. The payment of said tax shall not relieve the persons or property from any other penalties provided by law.

Sec. 13. Collection of tax - disposition of proceeds. The provisions of the law relating to the collection of taxes in this state, the delinquency thereof, and sale of property for taxes shall govern in the collection of the tax herein prescribed in so far as the same are applicable, and the said tax collected shall be applied in payment of any deficiency in the costs of the action and abatement on behalf of the state to the extent of such deficiency after the application thereto of the proceeds of the sale of personal property as hereinbefore provided, and the remainder of said tax together with the unexpended portion of the proceeds of the sale of personal property shall be distributed in the same manner as fines collected for the keeping of houses of ill fame, except that twenty per cent (20%) of the amount of the whole tax collected and of the whole proceeds of the sale of said personal property, as provided in this chapter, shall be paid by the treasurer to the attorney representing the state in the injunction action, at the time of final judgment.

That section ten hundred thirty-six (1036) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Sec. 14. Tax assessed against person served or appearing. When such nuisance has been found to exist under any proceeding in the district court or as in this chapter provided, and the owner or agent of such building or ground whereon the same has been found to exist was not a party to such proceeding, nor appeared therein, the said tax of three hundred dollars (\$300.00) shall, nevertheless, be imposed against the persons served or appearing and against the property as in this chapter set forth.

Approved January 23, 1924.

CHAPTER 37

STATE FIRE MARSHAL

S. F. 53

AN ACT to amend, revise, and codify chapter ten (10) of title five (5) of the compiled code of Iowa, and of the supplement to said code, relating to the state fire marshal and the prevention and investigation of fires; to provide the method of procedure in effecting appeals; also to provide a penalty for a violation thereof.

Be It Enacted by the General Assembly of the State of Iowa:

That chapter ten (10) of title five (5) of the compiled Code of Iowa, and of the supplement to said Code, is amended, revised, and codified to read as follows:

CHAPTER 10

STATE FIRE MARSHAL

Section 1. Appointment - term - vacancy. The governor shall, with the approval of the senate, appoint every four (4) years a state fire marshal, whose term of office shall be four (4) years and begin on the first day of July following the appointment. If any appointment, original or to fill a vacancy, is made when the senate is not in session, it shall be acted upon at the next session thereof, and in such case the appointee shall perform the duties of the office till such appointment is acted upon by the senate. His office shall be at the seat of government and he shall devote his entire time to the duties thereof.

Sec. 2. Removal--vacancies. The governor may remove the fire marshal at any time for cause, and appoint another for the unexpired term.

Sec. 3. Appointment of deputies. The fire marshal may appoint, with the approval of the executive council, one (1) deputy who shall have the same qualifications as the marshal.

Sec. 4. Duties of deputy. During the absence or inability of the fire marshal or a vacancy in that office, the deputy shall perform the duties of fire marshal.

Sec. 5. Expenses. The fire marshal and his deputy and assistants shall be entitled to their necessary traveling and hotel expenses while away from the city of Des Moines. The fire marshal may contract other necessary expenses in the performance of his official duties, but shall not exceed the amount appropriated for the support of his department.

Sec. 6. Investigation of causes of fires--duties of city and other officers. The state fire marshal, his deputy or inspectors, shall immediately investigate the cause, origin, and circumstances of every fire occurring within the state, when so requested by any official mentioned in this section, or the sheriff, deputy sheriff or county attorney of any county. The chief of the fire department of every city, town, or village in which a fire department is established, the mayor of every town or city in which no fire department exists, and the township clerk of every township, outside the limits of any city, town, or village, shall investigate the cause, origin and circumstances of every fire occurring in such city, town, village, or township by which property has been destroyed or damaged, and whether such fire was the result of carelessness or design.

Sec. 7. Time for investigation--report. The state fire marshal shall have the right to supervise and direct such investigation when notified as above provided. The officer making investigation of fires occurring in cities, villages, towns, or townships, shall forthwith notify said fire marshal, and shall within one (1) week of the occurrence of the fire furnish to the said fire marshal a written statement of all facts relating to the cause and origin of the fire and such other information as may be called for by the blanks provided by said fire marshal.

Sec. 8. Refusal of officer to investigate--penalty. Any chief of a fire department, mayor, or township clerk who fails or refuses to make the investigation and report required of him, shall be fined in a sum not less than five dollars (\$5.00) nor more than one hundred dollars (\$100.00).

Sec. 9. Record of fires. The fire marshal shall keep in his office a record of all fires occurring in the state, showing the name of the owners, name or names of occupants of the property at the time of the fire, the sound value of the property, the amount of insurance thereon, the total amount of insurance collected, the total amount of loss to the property owner, together with all the facts, statistics, and circumstances, including the origin of the fire, which may be determined by the investigation. Such record shall at all times be open to public inspection.

Sec. 10. Testimony under oath. The fire marshal or his deputy or inspectors shall, when in their opinion further investigation is necessary, take or cause to be taken the testimony under oath of all persons supposed to have knowledge of any facts, or to have means of knowledge in relation to the matter in which an examination is herein required to be made, and shall cause the same to be reduced to writing.

Sec. 11. Power to administer oaths and require attendance of witnesses--evidence--perjury. The fire marshaland his deputy or inspectors shall each have power in any county in the state to administer an oath and compel the attendance of witnesses before them, or either of them, to testify in relation to any matter which is by the provisions of this chapter a subject of inquiry and investigation, and may require the production of any books, papers, or documents necessary for such investigation.

Sec. 12. Refusal to testify or produce books or papers--misdemeanor. Any witness who refuses to be sworn, or refuses to testify, except as otherwise provided by law, or who disobeys any lawful order of said fire marshal, his deputy or inspectors, or who fails to produce any books, papers, or documents touching any matter under examination, shall be guilty of a misdemeanor, and shall be fined not exceeding one hundred dollars (\$100.00) or imprisoned in the county jail not exceeding thirty (30) days.

Sec. 13. Crimes in connection with fires--arrest. If the fire marshal or his deputy shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson, or with attempt to commit the crime of arson, or of conspiracy to defraud, or criminal conduct in connection with such fire, he or they shall cause such person to be arrested and charged with the offense, or either of them, and shall furnish to the proper county attorney all such evidence, together with the names of witnesses and all of the information obtained, including a copy of all matter and testimony taken in the case.

Sec. 14. Authority to enter and inspect buildings. The state fire marshal and his deputy or inspectors and all officers upon whom the duty of inspection is enjoined by this chapter, or either of them, shall have authority in the performance of the duties imposed by the provisions of this chapter, to enter upon, or examine any buildings, or premises adjoining or near the same, for the purpose of inspecting the same and the contents thereof.

Sec. 15. Removal or repair. When the fire marshal or his deputy shall find any building or structure, which for want of proper repair or by reason of age and dilapidated condition, is especially liable to fire, and is so situated as to endanger other buildings or property therein, or when any such official shall find in any building or upon any premises combustible or explosive matter or inflammable conditions dangerous to the safety of any buildings or premises, they shall in writing order the same to be removed or remedied and such order shall be complied with by the owner or occupant of said building or premises, within such reasonable time as the fire marshall shall specify.

Sec. 16. Review of order by fire marshal. Any owner, lessee, or occupant of a building may, within five (5) days after an order is issued for the removal, destruction, or repair thereof, or the removal of the contents thereof or the change of any other conditions, file with the fire marshal a petition for a review of such order. Thereupon the marshal shall fix a place which shall be within the county where the property is situated, and a time, for such review, which shall be not less than three (3) nor more than ten (10) days after the filing of such petition, and notify the petitioner thereof.

Sec. 17. Hearing on review. The marshal shall hear the evidence both for and against said order and may affirm, modify, or revoke such order according to the facts presented at such hearing, and make record of his findings and final order.

Sec. 18. Appeal to district court. Any owner, lessee, or occupant of a building may appeal to the district court of the county where such building is located from a final order of the fire marshal requiring the removal, destruction, or repair of such building or the removal of any of its contents or changing of its condition in any other respect, within thirty (30) days from the delivery to such person of a copy of such final order.

Sec. 19. How appeal taken. Such appeal shall be taken by filing in the office of the fire marshal notice of such appeal, specifying the order appealed from and the court and term thereof to which the appeal is taken, accompanied by a bond in the penal sum of one hundred dollars (\$100.00) with sureties approved by the clerk of said court, conditioned to pay all costs that shall be adjudged against appellant and abide the decree, judgment and order of the court.

Sec. 20. How tried--trial term. Said appeal shall be tried in equity and the first term shall be the trial term, and if filed in term time shall be triable at any time after the filing of the transcript. The court may affirm, modify, or revoke the order from which the appeal is taken.

Sec. 21. Transcript--how appeal entitled. Forthwith after notice of appeal is filed in the office of the fire marshal, he shall make or cause to be made a certified transcript of the proceedings on review before him, including the order appealed from, notice of appeal, bond and all documentary evidence filed in the proceeding and transmit the same to the clerk of said court who shall docket said appeal and entitle it in the name of the appellant against the state of Iowa.

Sec. 22. County attorney to represent state. The county attorney shall represent the state and the fire marshal, by not to the exclusion of any other attorney who may be engaged in said cause.

Sec. 22-a1. Appeal to supreme court. Either party may appeal from a judgment or order of the district court within the time and in the manner provided by law for appeals in ordinary actions.

Sec. 22-a2. Suspension of order pending appeal. Any order of the fire marshal from which an appeal has been taken to the district or supreme court, shall remain suspended during the pendency of such appeal.

Sec. 23. Costs. If the appellant fails in the appeal the costs shall be taxed against him, but if the order is revoked or annulled the costs shall be taxed to the state. If the order shall be modified, the court may in its discretion apportion the costs.

Sec. 24. Enforcing decree and judgment. The court shall issue such mandatory and other writs as shall be necessary to enforce its decree, judgment, or any final order in any such case and may punish as for contempt of court any refusal to obey the same.

Sec. 25. Appeal exclusive remedy. Unless appealed from as in this chapter provided, any order made by the fire marshal or his deputy shall be final, and the right of appeal as herein provided shall be the exclusive remedy against the enforcement of such orders.

Sec. 26. Time for compliance with order--penalty. When no petition of review has been filed or when the fire marshal on review or the court on appeal has affirmed or modified an order for the removal, destruction, or repair of a building, or the removal of any of its contents, or the change of any of its conditions, the owner, lessee, or occupant shall comply with such order within thirty (30) days after the delivery of the same or a copy thereof to him, either personally or by registered letter to his last known address, or by service upon his duly appointed agent. If such owner, lessee, or occupant shall fail to comply with such order he shall be subject to a penalty of ten dollars (\$10.00) for each day of failure or neglect after the expiration of said period, which shall be recovered in the name of the state and paid into the treasury of the county where collected.

Sec. 27. Refusal to obey orders--duty of marshal--expenses. If any person fails to comply with a final order of the marshal or his deputy or of a court on appeal and within the time fixed, then such officers are empowered and authorized to cause such building or premises to be repaired, torn down, demolished, materials and all dangerous conditions removed, as the case may be, and at the expense of such person, and if such person within thirty (30) days thereafter fails, neglects or refuses to repay said officers the expense thereby incurred by them, such officers shall certify said expenses, together with twenty-five per cent (25%) penalty thereon, to the auditor of the county in which said property is situated that notice of the reasonableness and amount of assessment shall be given in a manner as provided for giving notice in ordinary actions by the marshal or his deputy to the property owner, also notifying the property owner that a hearing thereon shall be had before the auditor of said county on a day not less than 10 or more than 15 days from the date of completed service of notice upon the property owner and if no appeal is taken therefrom to the district court at the time fixed in said notice the auditor shall hear and determine the matter. Any person aggrieved by the order and determination of the auditor may appeal therefrom to the district court of the county by serving notice within twenty days thereafter upon said auditor; and such appeal shall be heard and determined by the court as in cases of appeals from the order of the fire marshal as provided in this act. Said auditor shall enter said expense on the tax records of said county as a special charge against the real estate on which said building is or was situated if in the name of such person, otherwise as a personal tax against such person, and the same shall be collected as other taxes and, when collected, shall, together with the penalty thereon, be refunded to the fire marshal, and by him paid into the state treasury where it shall be credited to the appropriation for expenses of the fire marshal's office.

Sec. 28. Investigation may be private. Investigation by or under the direction of the state fire marshal or his deputy or inspectors may in their discretion be private. They may exclude from the place where such investigation is held all persons other than those required to be present, and witnesses may be kept separate from each other and not allowed to communicate with each other until they have been examined.

Sec. 29. Fire drills in public schools--exits unlocked. It shall be the duty of the state fire marshal and his deputy to require teachers of public and private schools, in all buildings of more than one (1) story, to have at least one (1) fire drill each month, and to require all teachers of such schools, whether occupying buildings of one (1) or more stories, to keep all doors and exits of their respective rooms and buildings unlocked during school hours.

Sec. 30. Bulletin--teachers to instruct--penalty. The state fire marshal shall prepare a bulletin upon the causes and dangers of fires, arranged in not less than four (4) divisions or chapters, and under the direction of the executive council shall publish and deliver the same to the public schools throughout the state.

Sec. 31. Annual report--publication--distribution. The state fire marshal shall file with the governor annually, at the time provided by law, a detailed report of his official acts and of the affairs of his office which report shall be published and distributed as the reports of other state officers.

Sec. 32. Fee for fires reported--payment. There shall be paid to the chief of the fire department, and to mayors of incorporated towns, and to the township clerk of every township, who are by this chapter required to report fires to the state fire marshal, the sum of fifty cents (50c) for each fire so reported to the satisfaction of the state fire marshal and in addition thereto there shall be paid to township clerk mileage at the rate of ten cents (10c) per mile for each mile traveled to and from the place of fire. Said allowances shall be paid by the state fire marshal out of any funds appropriated for the use of the office of said state fire marshal.

Sec. 33. Annual appropriation for expenses and fees. There is hereby appropriated out of any money in the state treasury not otherwise appropriated the sum of seven thousand five hundred dollars (\$7,500.00) annually, or so much thereof as may be necessary for the purpose of paying the expenses and fees authorized by this chapter. The said fire marshal shall keep on file in the office an itemized statement of all expenses incurred by his department.

Approved February 15, 1924.

CHAPTER 38

FISH AND GAME

H. F. 54

AN ACT to amend, revise, and codify chapters fifteen (15) and sixteen (16) of title five (5) of the compiled code of Iowa, and of the supplement to said code, relating to propagation and protection of fish, game, wild birds, and animals.

Be It Enacted by the General Assembly of the State of Iowa

That chapters fifteen (15) and sixteen (16) of title five (5) of the compiled Code of Iowa, and of the supplement to said Code, are amended, revised, and codified to read as follows:

CHAPTER 15

PROPAGATION AND PROTECTION OF FISH, GAME, WILD BIRDS, AND ANIMALS

Section 1. State ownership and title - Exceptions. The title and ownership of all fish, mussels, clams and frogs in any of the public waters of the state, and in all ponds, sloughs, bayous, or other waters adjacent to any public waters stocked with fish by overflow of public waters, and of all wild game, animals, and birds, including their nests and eggs, found in the state, whether game or non-game, native or migratory, except deer in parks and in public and private preserves, the ownership of which was acquired prior to April nineteenth, nineteen hundred eleven (1911), are hereby declared to be in the state, except as otherwise in this chapter provided.